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FRANK REISINGER

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EXAMINER

SHERR, CRISTINA O

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FRANK REISINGER

Appeal 2008-3053
Application 09/340,782
Technology Center 3600

Decided: January 21, 2009

Before HUBERT C. LORIN, ANTON W. FETTING, and
BIBHU R. MOHANTY, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Frank Reisinger (Appellant) seeks our review under 35 U.S.C. § 134 of the Final Rejection of claims 1-32. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE.¹

THE INVENTION

The present invention relates “to a method ... for dependable transmission of service data to terminal equipment from a remote location, and in particular to a method and arrangement for transmitting and storing a new postage fee table in a postage computer in a secure manner.”

Specification 1:6-10. The Specification discusses various prior art methods of loading postage fee tables to a postage fee machine. Specification 1-3.

Their disadvantages include requiring the postage machine to remain constantly activated; storing a fee schedule apart from the postage meter machine before it takes effect, requiring updating; storing fee schedules in a scale but which relate to separate mail carriers that need to be selected by a keyboard; and, transmitting fee schedules from a data center to terminal equipment but without the data center able to check if the current postage fee schedule table was in fact properly stored in the terminal equipment.

Specification 1-3. To overcome these disadvantages, the Specification describes using an “electronic postage computer.” Specification 4:4.

The processing module is an electronic postage computer. The terminal equipment [e.g., a postage meter machine] is connected to a postage computer, or the terminal equipment can contain a microprocessor serving as a postage computer, the

¹ Our decision will make reference to the Appellant’s Appeal Brief (“App. Br.,” filed May 25, 2007) and Reply Brief (“Reply Br.,” filed Oct. 30, 2007), and the Examiner’s Answer (“Answer,” mailed Sep. 6, 2007).

postage computer being programmed to undertake a storage of the new postage fee schedule table data in a memory of the terminal equipment or of the postage computer, and to form a checksum over the stored, new postage fee schedule table data and to communicate the checksum to the data central, as well as to implement a received (OK) message and switch the terminal equipment or the postage computer into an operating mode.

Specification 4.

Claim 1, reproduced below, is illustrative of the claims on appeal.

1. A method for dependably transmitting service data from a data center to remotely-located terminal equipment, comprising the steps of:

offering new service data at a data center for future use at terminal equipment;

forming a request for new service data at the terminal equipment;

establishing a first communication between the terminal equipment and the data center and in said first communication transmitting said request data from the terminal equipment to the data center, receiving the request data at the data center, transmitting the new service data requested in the request data from the data center to the terminal equipment, and receiving and storing the new service data at the terminal equipment; and

establishing a second communication between the terminal equipment and the data center and in said second communication forming a message at the terminal equipment that refers to the new service data stored at the terminal equipment, communicating said message from the terminal equipment to the data center, receiving the message from the terminal equipment at the data

center and checking the message at the data center by comparison of information contained in the message with information generated from the new service data at the data center and, given a positive comparison result, transmitting a follow-up message from the data center to the terminal equipment allowing said terminal equipment, when appropriate, to use said new service data, and registering at the data center the valid transmission of the new service data to the terminal equipment.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Wright	US 4,802,218	Jan. 31, 1989
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The following rejection is before us for review:

1. Claims 1-32 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wright.

ISSUES

The issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 1-32 under 35 U.S.C. § 102(b) as being anticipated by Wright. The issue turns on whether Wright expressly or inherently describes terminal equipment remotely-located from a data center.

PRINCIPLES OF LAW

Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

ANALYSIS

Like the Appellant (App. Br. 6-9), we, too, have struggled to discern precisely what in Wright the Examiner is using as evidence for the conclusion that Wright expressly or inherently describes the claimed subject matter. The Final Rejection/Answer appear to present copies of the claims on appeal preceded with an assertion that Wright discloses the claimed subject matter and followed with a string of column/line numbers. For example, in the Answer, pp. 3-4, the Examiner states that “Wright discloses a [claim 1] (e.g. col 2 ln 65 – col 4 ln 30, col 3 ln 35-60, col 3 ln 60-col 4 ln 5, col 5 ln 18-30).” From our reading of the disclosure in Wright to which the Examiner cites, it is not so apparent that it describes, expressly or inherently, the claimed subject matter. For one, terms are used in Wright that are different from those used in the claims. For example, a central element of the claimed subject matter is a “data center,” something Wright nowhere recites. The Examiner’s position would have been made more clear, and perhaps strengthened, had it included a claim construction analysis.

Be that as it may, claims 1, 12, 17, and 28 all have one thing in common: they require that terminal equipment be “remotely-located” to a data center. We find that Wright does not expressly or inherently describe this claim limitation.

The claimed methods and apparatuses involve two pieces of equipment: a data center and a terminal. They seek to “dependably transmit[] service data from a data center to remotely-located terminal equipment” (claims 1, 12, 17, and 28). The procedure method claims 1 and 12 describe comprises the terminal requesting new data from the data center and the data center sending the new data to the terminal. Then the terminal sends a message regarding the new data to the data center which compares the message with the new data it originally sent to the terminal. If they match, the data center sends a follow-up message allowing the terminal to use the new data it originally sent. Apparatus claims 17 and 28 mirror the claimed methods but are presented in means-plus-function format.

Notwithstanding that we have been unable to find express disclosure in Wright for the procedures set forth in the method claims or for the structures the Specification discloses as corresponding to the means set forth in the apparatus claims, and the Examiner has not explained why Wright inherently describes these features of the claimed subject matter, nevertheless all the claims require the terminal to be “remotely-located” to the data center and that, at least, must be expressly or inherently described in Wright for Wright to be an anticipatory reference.

This – that Wright does not expressly or inherently describe the terminal “remotely-located” to the data center - is Appellant’s major argument challenging the Examiner’s rejection. App. Br. 7 and Reply Br. 2. In response to the Appellant’s argument, the Examiner cites a line in Wright that says “the handshake procedure can be performed with an operations microprocessor for the terminal, or one remote to the terminal” (col. 7, ll. 57-60)(see Answer 17) in support of the contention that Wright describes

remote communication between card and terminal. But on closer examination that is not what is occurring.

Wright describes a transaction procedure which, like the claims, may involve, for example, the use of a postage metering terminal. However, there is no remote data center disclosed in Wright. What is disclosed is a user microprocessor card to be inserted into the terminal. It is this card which communicates with the terminal via a “handshake” procedure (see section beginning at col. 9, line 43). Given the Examiner’s reliance on Wright’s disclosure of a handshake procedure between the user microprocessor card and the terminal, it appears that the Examiner is equating the user microprocessor card to the claimed data center. However, for the “handshake” procedure to be effected, the card must be inserted into the terminal. (See col. 13, ll. 54-55: “terminal 20’ includes a slot 11 for a user card 10, a terminal MPU 30,”) Thus, even if the card is equated to the claimed data center, it is not remote to the terminal but rather made a part of it. We understand the disclosure in Wright to which the Examiner refers (i.e., col. 7, ll. 57-60) to be describing a system whereby the user microprocessor card – when inserted in the terminal – may communicate either with the terminal’s microprocessor, as it is located within the terminal, or if the terminal’s microprocessor is located remote to the terminal itself. However, the user microprocessor card (if equated to the claimed data center) remains a part of the terminal and is not remote to it. Accordingly, on that basis alone, i.e., that Wright does not show a terminal “remotely-located” to the data center as required by the claims, Wright does not anticipate the claimed subject matter.

We conclude that the Examiner has not made out a prima facie case of anticipation.

CONCLUSIONS OF LAW

We conclude that the Appellant has shown that the Examiner erred in rejecting claims 1-32 under 35 U.S.C. §102(b) as being anticipated by Wright.

DECISION

The decision of the Examiner to reject claims 1-32 is reversed.

REVERSED

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